

FEB 23 2009

**Board of Vocational Nursing  
and Psychiatric Technicians**

EDMUND G. BROWN JR., Attorney General  
of the State of California  
FRANK H. PACOE  
Supervising Deputy Attorney General  
JUSTIN R. SURBER, State Bar No. 226937  
Deputy Attorney General  
455 Golden Gate Avenue, Suite 11000  
San Francisco, CA 94102-7004  
Telephone: (415) 355-5437  
Facsimile: (415) 703-5480

Attorneys for Complainant

**BEFORE THE  
BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. VN-2007-2050

**MONETTE MERU GOTWISNER**  
20648 Woodside Way  
Castro Valley, CA 94546

**ACCUSATION**

Vocational Nurse License No. VN 209798

Respondent:

Complainant alleges:

**PARTIES**

1. Teresa Bello-Jones, J.D., M.S.N., R.N. (Complainant) brings this Accusation solely in her official capacity as the Executive Officer of the Board of Vocational Nursing and Psychiatric Technicians, Department of Consumer Affairs.

2. On or about June 25, 2004, the Board of Vocational Nursing and Psychiatric Technicians issued Vocational Nurse License Number VN 209798 to Monette Meru Gotwisner (Respondent). The Vocational Nurse License was in full force and effect at all times relevant to the charges brought herein and will expire on June 30, 2010, unless renewed.

**JURISDICTION**

3. This Accusation is brought before the Board of Vocational Nursing and Psychiatric Technicians (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code ("Code") unless

otherwise indicated.

## **STATUTORY PROVISIONS**

4. **Section 2875** of the Code provides, in pertinent part, that the Board may discipline the holder of a vocational nurse license for any reason provided in Article 3 (commencing with section 2875) of the Vocational Nursing Practice Act.

5. **Section 2878** of the Code states:

"The Board may suspend or revoke a license issued under this chapter [the Vocational Nursing Practice Act (Bus. & Prof. Code, 2840, et seq.)] for any of the following:

"(a) Unprofessional conduct, which includes, but is not limited to, the following:

(6) Failure to report the commission of any act prohibited by this section.

"(b) Procuring a certificate by fraud, misrepresentation, or mistake.

"(c) Making or giving any false statement or information in connection with the application for issuance of a license.

"(f) Conviction of a crime substantially related to the qualifications, functions, and duties of a licensed vocational nurse, in which event the record of the conviction shall be conclusive evidence of the conviction.

"(j) The commission of any act involving dishonesty, when that action is related to the duties and functions of the licensee.

6. **Section 490** of the Code provides, in pertinent part, that the Board may suspend or revoke a license when it finds that the licensee has been convicted of a crime substantially related to the qualifications, functions or duties of a licensed vocational nurse.

## **REGULATORY PROVISIONS**

7. **California Code of Regulations, title 16, section 2521**, states:

"For the purposes of denial, suspension, or revocation of a license pursuant to

Division 1.5 (commencing with Section 475) of the Business and Professions Code, a crime or act shall be considered to be substantially related to the qualifications, functions or duties of a licensed vocational nurse if to a substantial degree it evidences present or potential unfitness of a licensed vocational nurse to perform the functions authorized by his license in a manner consistent with the public health, safety, or welfare. Such crimes or acts shall include but not be limited to those involving the following:

“(a) Procuring a license by fraud, misrepresentation, or mistake.

“(e) Conviction of a crime involving fiscal dishonesty.

### **COST PROVISION**

8. **Section 125.3** of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

### FACTUAL BACKGROUND

9. On or about January 28, 2005, in Alameda County Superior Court Case No. 113942, Respondent plead no contest to violating Penal Code § 484(a), petty theft. Entry of judgment was deferred for four months conditioned upon successful completion of California Offender Program Services (COPS) and payment of fines. On or about May 31, 2005, Alameda County Superior Court Case No. 113942 was dismissed.

10. The circumstances leading to Respondent's no contest plea in Alameda County Superior Court Case No. 113942 are as follows: on or about November 29, 2004, Respondent was caught stealing goods from a Macy's store.

11. Respondent provided the Board of Vocational Nursing and Psychiatric Technicians with two conflicting accounts of what transpired on November 29, 2004. In the first account, Respondent admitted she stole from Macy's. In the second account, Respondent denied stealing anything. One account is dishonest.

12. On or about April 21, 2008, in Alameda County Superior Court Case No. 126572, Respondent was convicted, upon a plea of no contest, of violating Penal Code § 484(a), petty theft.

13. The circumstances leading to Respondent's conviction in Alameda County Superior Court Case No. 126572 are as follows: on or about January 2, 2008, Respondent was caught stealing goods from a JC Penny store.

14. On or about April 22, 2008, Respondent signed her renewal application for her vocational nurse license. Respondent falsely stated, under penalty of perjury, that she had not been convicted of or plead no contest to any violation of any law of any state in the United States or a foreign country. Respondent's license was renewed.

#### **FIRST CAUSE FOR DISCIPLINE**

##### **(Unprofessional conduct)**

15. Respondent is subject to disciplinary action under Section 2878(a) of the Code in that Respondent was involved in unprofessional conduct. The circumstances are described in paragraphs 9-14, above.

#### **SECOND CAUSE FOR DISCIPLINE**

##### **(Acts of Dishonesty)**

16. Respondent is subject to disciplinary action under section 2878(j) of the Code in that Respondent committed an acts of dishonesty that are substantially related to the duties and functions of a licensed vocational nurse. The circumstances are described in paragraphs 11 and 14, above.

#### **THIRD CAUSE FOR DISCIPLINE**

##### **(Conviction of Substantially Related Crime)**

17. Respondent is subject to disciplinary action under sections 490 and 2878(f) of the Code and California Code of Regulations, title 16, section 2521(e) in that Respondent was convicted of a crime that is substantially related to the qualifications, duties, or functions of a licensed vocational nurse. The circumstances are described in paragraphs 12-13, above.

1 **FOURTH CAUSE FOR DISCIPLINE**

2 **(Failure to Report Conviction on License Renewal)**

3 18. Respondent is subject to disciplinary action under sections Section 2878  
4 subsections (a)(6), (b), (e), and (j), and California Code of Regulations, Title 16, section 2521(a)  
5 in that Respondent falsely stated she had not been convicted of a crime on her license renewal  
6 application. Respondent's license was renewed.


7 **PRAYER**

8 WHEREFORE, Complainant requests that a hearing be held on the matters herein  
9 alleged, and that following the hearing, the Board of Vocational Nursing and Psychiatric  
10 Technicians issue a decision:

- 11 1. Revoking or suspending Vocational Nurse License Number VN 209798,  
12 issued to Monette Meru Gotwisner.
- 13 2. Ordering Monette Meru Gotwisner to pay the Board of Vocational Nursing  
14 and Psychiatric Technicians the reasonable costs of the investigation and enforcement of this  
15 case, pursuant to Business and Professions Code section 125.3;
- 16 3. Taking such other and further action as deemed necessary and proper.
- 17

18 DATED: February 23, 2009

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20   
21 TERESA BELLO-JONES, J.D., M.S.N., R.N.  
22 Executive Officer  
23 Board of Vocational Nursing and Psychiatric Technicians  
24 Department of Consumer Affairs  
25 State of California  
26 Complainant

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